

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Sections 74.1203(a)(3) and)	RM No. 11786
74.1204(f) of the Commission's Rules to)	
Protect Local Radio Service Provided by)	
Fill-In Area FM Translators)	

To: The Commission

Comments of Apple 107.1, Inc.

Apple 107.1, Inc., ("Apple") by Counsel, and pursuant to the *Public Notice Report No. 3074 (released April 18, 2017)* submits these Comments in support of the above-captioned rule making proposal filed by Aztec Capital Partners, Inc. ("Aztec"). Apple is the licensee of FM Translator W292DV (FX), New York, New York (FCC Fac. I.D. 155888) ("W292DV"). In support hereof, Apple submits the following:

Apple supports Aztec's proposal to modernize the FM Translator rules and policies of the Federal Communications Commission ("FCC"). Although FM Translator Stations operate on a secondary basis to full power FM radio stations, within the context of AM Revitalization and with new entrant HD sub-channel stations there is nothing secondary or inferior about the service they provide to the public or the important role they provide in the local community.

As a translator Licensee, Apple has experienced exactly what Aztec has experienced with "alleged" interference issues. Apple has battled with Press Communication, LLC licensee of co-channel Station, WKMK (FM), Eaton, New Jersey for several years. After multiple attempts to silence W292DV, Apple has remained operational (at reduced power) serving the needs of the public in its coverage area.

Because of this experience, Apple is aware, under current FCC policy, how captive and fragile such translator operations are to interference complaints. Apple, as stated above, supports Aztec's proposals, but wishes the Commission to also consider the following:

1. With respect to interference complaints, the FCC should require that there be a minimum number of verifiable complaints of interference that would trigger the necessity that the FM Translator Station take corrective action or shut down. Recently NAB suggested that this number be should be six (6). Apple believes six is simply too few for larger markets. Apple submits that for markets with a population over 50,000, then the minimum number of required complaints must be fifteen (15), and for the smaller markets, the NAB suggested standard of six is acceptable. Any complaint submitted must be verified with a dated written statement that includes the person's full name, address¹, phone number or email address, and specific information as to where the interference takes place and how often that person listens to the distant signal station. Finally, none of these complaints should be considered verifiable until the licensee of the FM Translator has an opportunity to speak with or meet with each complainant. The failure of a complainant to cooperate within thirty (30) days of his or her written statement should result in the disregard of that complaint as unverifiable.

2. There should be a distance barrier that would prevent listener complaints from being considered. Someone who resides or works a certain distance away from the distant signal's transmitter location should have no expectation of a clean or audible signal. Apple submits that such distance should be the area within the distant signal's 60 dBu contour or 20 miles, whichever is greater. Anyone residing, working or driving outside that

¹ Apple believes only one complaint should be allowed per residence or business.

area should not qualify as a viable listener complainant. The absolute certainty of such distance calculations is necessary for administrative convenience.

3. Apple feels that the needs of the local community where fill-in translator service (whether for AM or HD) is provided far outweigh the needs of one or two distant listeners of a distant station. With that in mind, Apple believes the FCC should dismiss any complaint where it can be shown that the programming on the complaining distant signal station can be easily accessed by alternative means (such as Internet stream, smart phone connection and the like).

Since the FCC updated its rules and policies in 2009 to allow certain FM translator stations to rebroadcast certain AM Radio Stations, there has been modest and steady progress towards the revitalization of the AM Radio Service. The ideas offered by Apple and as filed by Aztec are common sense measures that will continue the modernization of the FCC's rules and policies for FM Translators

Twenty-six years ago, within the context of reviewing technical proposals to improve the AM broadcast service, the Commission stated the following:

Over the years ... channel congestion and interference, both radio- and environmentally-induced, have dramatically increased in the AM band. Coincident with this growth has been a decline in the fidelity of AM receivers. As a consequence, during the last twenty years there has been a well-documented shift of AM listeners to newer mass media services that offer higher technical quality and better aural fidelity. This shift in listenership has clearly dulled the competitive edge of this once vital service.

Nonetheless, we believe that AM radio continues to hold a valuable place on the communications landscape. AM service provides a significant number of outlets that contribute to the vital diversity of viewpoints and programming available to Americans. Indeed, AM often offers the only radio service to listeners in a variety of circumstances, particularly those living in and traveling through rural areas. In view of the undisputed public importance of the AM service, we believe that innovative and substantial regulatory steps must be taken to ensure its health and survival.

For the past several years, the Commission has made an intensive effort to identify the service's most pressing problems and, where relevant and feasible, to adapt the regulatory environment for AM stations that will ameliorate those problems. *Review of the Technical Assignment Criteria for the AM Broadcast Service*, 6 FCC Rcd. 6273 at paras. 2-4 (1991) (footnotes omitted).

Despite the Commission's encouraging words almost three generations ago, it is accurate to say that the more things have changed, the more they have stayed the same. Much effort has been expended to identify the problems of the AM broadcast service, but until very recently little has been done to fix those problems. In reality, the AM broadcast service was abandoned for decades, and now it is regaining credibility and relevancy. This new momentum needs to continue.

WHEREFORE, the foregoing premises considered, Apple support Aztec's rule making proposal.

Respectfully submitted,

Apple 107.1 Inc.

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CERTIFICATE OF SERVICE

I, Sharon L. Hinderer, a legal assistant in the law offices of Putbrese Hunsaker & Trent, P.C., do hereby certify that copies of the "Comments" have been sent via first class, U.S. mail, postage prepaid, this 18th day of May 2017, to the following:

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